

REMARKS

This responds to the Office Action mailed on August 5, 2005.

Claims 1, 2, 6, 7, 9, 15, 16, 18, 22, 23, 25, 31, and 34 are amended, claims 3 and 19 are canceled; as a result, claims 1, 2, 4-18, 20-35 are now pending in this application.

§103 Rejection of the Claims

Claims 1-4, 6, 10-11 and 13-35 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Stewart (U.S. Publication No. 2001/0049634).

Applicants respectfully submit that claims 1-4, 6, 10-11, 13-35 should not be rejected under 35 U.S.C. § 103(a) for the reason that prior art references when combined do not teach or suggest all of the claim limitations of the independent claims of the present application. Reasons for rejection of claims 1-4, 6, 10-11, 13-35 appears below.

To establish a **prima facie** case of **obviousness**, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

Claim 1 includes the following limitation:

receiving an authorization communication, over a network, at a network-based auction facility...

...the authorization communication to authorize the bidder to bid on a particular sale listing that is listed for sale by the seller

The Final Office Action contends that the above limitation is anticipated by the following disclosures in Stewart:

[0057] Once the buyer member has become registered with one or more seller members, they will then be permitted to view and purchase from seller product catalogs....

Stewart, paragraph 57 (first quote).

[0099] When sellers have been identified and qualified to be seller members on the website, the individual buyers with which they have previously done business in the past can be contacted so as to become qualified buyer members on the site.

Stewart, paragraph 99 (second quote).

After the buyer member has logged into the site, an authorized individual can begin searching for the particular product needed... A search screen is presented to the buyer member ... and the website controller will display to the buyer member the seller member that offer such products, as well as the retail price The buyer member... can then decide which of the products it wishes to purchase and also designate, by clicking in the appropriate area, which products it wants to purchase...

Stewart, paragraph 100 (third quote).

The above three quotes from Stewart describe a buyer member that is registered/qualified/authorized to perform various activities on a website. The first quote describes a buyer member that is registered with one or more seller members. Once registered the buyer member is permitted to bid on auction products from seller product catalogs. The first quote does not describe how the buyer member is registered. The second quote from Stewart describes a seller member that contacts a buyer with whom the seller member has previously done business. The seller member contacts the buyer so the buyer may become a qualified buyer member on the site. The second quote does not describe how the buyer member is qualified. The third quote from Stewart describes a buyer member that has logged into a site and, if authorized,

may search for and purchase products. The third quote does not describe how the buyer member is authorized.

Claim 1 requires receiving an authorization communication over a network that authorizes a bidder to bid on a particular sale listing that is listed for sale by a seller. Merely for example a seller may access a web page to add a bidder to a pre-approve bidders list thereby enabling the bidder to bid on a particular listing offered by the seller (Application, paragraphs 22, 34). In contrast to the limitations of claim 1, none of the above three quotes from Stewart describe receiving an authorization communication over a network much less the further limitations of claim 1; but rather, the above three quotes from Stewart describe a buyer member that may be respectively registered, qualified and authorized. Further, Stewart fails to describe how registration, qualification or authorization is performed. Indeed the first quote describes a buyer member being permitted to purchase from seller product catalogues once registered; however, claim 1 requires an authorization to bid on a particular sale listing that is listed for sale by a seller. The Final Office Action offers an explanation, “Since Stewart [sic] discloses authorization for *all* sale listings, this encompasses a “particular” sale listing” (Final Office Action, page 5). Applicants respectfully disagree. An authorization of all sales listings is not the same as an authorization to bid on a particular sales listing. Indeed, Stewart explicitly excludes repeatedly qualifying a buyer member as advantageous. For example, at paragraph 91 Stewart states, “As only authorized buyers are able to purchase the products, each of those buyers must be individually authorized by the particular sellers thereby eliminating the need for the seller member to repeatedly requalify (sic) a buyer member when each product order is enforced.” Stewart therefore cannot be said to teach *or suggest* the above quoted limitation of claim 1 because Stewart describes an authorization of a buyer and claim 1 requires receiving an authorization communication over a network that authorizes a bidder to bid on a particular sale listing that is listed for sale by a seller.

The above remarks are also applicable to a consideration of independent claims 1, 16, 17, 32, 33, 34, and 35. Accordingly, the Applicants request that the above remarks and amendments contained herein also be considered when examining these other independent claims for allow ability.

Claims 7-8 and 12 depend on independent claim 1. If an independent claim is nonobvious under 35 U.S.C. § 103(a) then, any claim depending therefrom is nonobvious and rejection of claims 7-8 and 12 under 35 U.S.C. § 103(a) is also addressed by the above remarks.

Claim 9 was rejected under 35 U.S.C. § 103(a), as being allegedly unpatentable over Stewart as applied to claims 1-4, 6, 10-11, 13-35 above, and further in view of U.S. Patent No. 6,240,396 (hereinafter Walker). Claim 9 depends on independent claim 1. If an independent claim is nonobvious under 35 U.S.C. § 103(a) then, any claim depending therefrom is nonobvious and rejection of claim 9 under 35 U.S.C. § 103(a) is also addressed by the above remarks.

Claim 5 was rejected under 35 U.S.C. § 103(a), as being allegedly unpatentable over Friedland in view of Stewart as applied to claims 1-4, 6-35 above, and further in view of U.S. Publication No. 2002/0042755 (hereinafter Kumar). Claim 5 depends on independent claim 1. If an independent claim is nonobvious under 35 U.S.C. § 103(a) then, any claim depending therefrom is nonobvious and rejection of claim 5 under 35 U.S.C. § 103(a) is also addressed by the above remarks.

In summary, Stewart, in combination with Walker, Friedland, and Kumar does not teach or suggest each and every limitation of claims 1, 16, 17, 32, 33, 34, and 35 as required to support rejections of the independent claims of the present application under 35 U.S.C. § 103(a).

Serial Number: 09/881,911

Filing Date: June 15, 2001

Title: METHOD AND SYSTEM TO IMPLEMENT SELLER AUTHORIZED BUYING PRIVILEGES WITHIN A NETWORK-BASED SHOPPING FACILITY

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney 408-846-8871 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

JEFFREY TAYLOR ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
408-846-8871

Date 10/5/2005

By Mark R. Vatuone
Mark R. Vatuone
Reg. No. 53,719

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop AF, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 5th day of October, 2005.

Dawn R. Shaw

Name

Dawn R. Shaw

Signature